IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7579 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE D.H.WAGHELA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SAROUTTAM CEMENT(SARVOUTTAM) TEXTILCE MILLS P LTD & 1 - Petitioner(s)
Versus
UNION OF INDIA & 5 - Respondent(s)

==========

Appearance :
None for the Petitioner(s) : 1 - 2.
None for Respondent(s) : 1,
MR DIPEN DESAI, AGP for Respondent(s) : 2,
RULE SERVED for Respondent(s) : 3 - 6.

==========

CORAM : HONOURABLE MR.JUSTICE R.S.GARG

and

HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 15/09/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. The counsel who was representing the petitioners, since after his elevation as Judge of the High Court is not available to the petitioners for their proper representation in the Court. On an office note, we directed that notices be served upon the petitioners so that the matter can proceed. The office has submitted that the notices could not be served upon the petitioners as they have left the premises in which they were carrying on their business.
2. It is to be noted that by this writ application, the petitioners are seeking to challenge the constitutional validity of Section 9[3] of Mines and Minerals (Regulation & Development) Act, 1957. A Division Bench of this Court in Special Civil Application No. 108/79 decided on 21st January, 1999, has held that provisions contained in Section 9[3] of the Act are not ultra vires the Constitution and do not suffer with the vice of excessive delegation.
3. Taking into consideration the totality of the

circumstances that on one side, the petitioners cannot be served and on the other side, the Division Bench has upheld the constitutional validity of the provisions, we do not continue with this petition, it is accordingly disposed of.

4. If the petitioners are still desirous of continuing with the petition, then, on an application by the petitioners, the matter may be restored back. Rule is discharged. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

[D.H. WAGHELA, J.]

pirzada/-